

REMARKS

By the foregoing Amendment, Claims 1, 13, 14, 20, 23 and 24 are amended. Entry of the Amendment, and favorable consideration thereof, is earnestly requested. Claims 2, 3, 7, 11 and 12 having been previously cancelled, Claims 1, 4-6, 8-10 and 13-31 are currently pending.

All Claims stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bergsbaken et al. (U.S. Patent No. 5,452,729) in view of Ruben (U.S. Patent No. 4,095,300). Applicant respectfully asks the Examiner to reconsider these rejections in view of the above Amendments and the following Remarks.

The present invention is directed to a fitted table covering that may conveniently and quickly be affixed to a table and to provide an appealing visual presentation that does not require the use of installation tools and that will not damage the table. To this end, all claims require a table cover having a top cover formed of a polymeric film, a plurality of side drops formed of the polymeric film, each extending outwardly from a respective one of the sides of the top cover and being folded generally orthogonal to the top cover to extend downwardly to a free edge, and a plurality of pre-fitted corners, each corner defined by two adjacent side drops permanently joined together along abutting ends thereof to cause the polymeric film to be fitted about the plurality of sides of the tabletop and hold the table cover on the tabletop. Further, Claims 1, 13, 14, 20, 23 and 24 (all independent claims) have been amended to require that the free edges of the plurality of side drops together define a periphery or contour having a shape and dimensions substantially identical to a shape and dimensions of the periphery or contour of the top cover. Applicant respectfully submits that at least the above highlighted limitations are not disclosed, taught or suggested by the cited prior art, either when taken alone or when properly combined.

Bergsbaken et al. is directed to a surgical drape, and improved assembly techniques for making the same, which are particularly designed and configured for use with T-shaped and L-shaped operating room tables. More specifically, Bergsbaken et al. is concerned with providing a gusset assembly for use in the internal corners of such T-shaped and L-shaped tables, there being two interior corners on T-shaped tables and one interior corner on L-shaped tables. Ruben is directed to a method of constructing the fitted corners of a bedcover involving a particular stitching configuration.

The Examiner has acknowledged that Bergsbaken et al. does not disclose, teach or suggest pre-fitted corners defined by two adjacent side drops permanently joined together along abutting ends thereof, but instead has asserted that it would have been obvious to have replaced the corners of Bergsbaken et al. with the stitched corners of the Ruben bedcover. Applicant respectfully disagrees. Moreover, as mentioned above, all independent claims have been amended to require that the free edges of the plurality of side drops together define a periphery or contour having a shape and dimensions substantially identical to a shape and dimensions of the periphery or contour of the top cover. Applicant respectfully submits that the hypothetical device resulting from the combination suggested by the Examiner would not satisfy this limitation.

It is well settled that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then the proposed modification would not be obvious. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In the present case, if any of the corners of the Bergsbaken et al. surgical drape were replaced with the stitched corners taught by Ruben, the Bergsbaken et al. invention would no longer satisfactorily function for its intended

purpose. Similarly, if the Bergsbaken et al. surgical drape was modified such that the free edges of the side drops defined a periphery or contour having a shape and dimensions *substantially identical to* a shape and dimensions of the periphery or contour of the top cover, the Bergsbaken et al. invention would also no longer satisfactorily function for its intended purpose.

With respect to the exterior corners of the Bergsbaken et al. surgical drape, there being six on T-shaped tables and five on L-shaped tables, these corners are and must be freely draping, not pre-fitted, corners. This is true because the surgical drape of Bergsbaken et al. is draped over a patient reclining on a T-shaped or L-shaped operating room table. As such, and because every patient is different in size, the exterior corners of Bergsbaken et al. could not possibly be pre-fitted, or the surgical drape could not accommodate patients of varying size. Therefore, it would not have been obvious to have replaced the exterior corners of the Bergsbaken et al. surgical drape with the stitched corners of the Ruben bedcover.

Similarly, if the free edges of the side drops defined a periphery or contour having a shape and dimensions *substantially identical to* a shape and dimensions of the periphery or contour of the top cover, the result would be a tight-fitting table cover, and no longer a surgical drape. As such, *no patient at all* would fit under the pre-fitted cover.

With respect to the interior corners of the Bergsbaken et al. surgical drape, there being two on T-shaped tables and one on L-shaped tables, it is critical in the invention of Bergsbaken et al. that these corners be “slit” and that a piece of material (i.e., a gusset) be attached between the slit edges 44, 46 in order for the surgical drape to drape properly over a patient reclining on a T-shaped or L-

shaped table. This can be clearly envisioned by examining Figure 7 of Bergsbaken et al., wherein it can be clearly seen that if the stitched corner of Ruben were used instead of the gusset (i.e., if slit edges 44, 46 were stitched to one another), there would be significant bunching at the interior corner, and the Bergsbaken et al. surgical drape would no longer function as intended. In fact, the gusset of material disposed between the slit edges 44, 46 of the surgical drape is the very crux of the invention disclosed in Bergsbaken et al., and if the slit edges were merely stitched together, there would be no reason to create the slit in the first place. Therefore, it would not have been obvious to have replaced the interior corners of the Bergsbaken et al. surgical drape with the stitched corners of the Ruben bedcover.

For the foregoing reasons, Applicant respectfully submits that all pending claims, namely Claims 1, 4-6, 8-10 and 13-31, are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,

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